

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

DANIEL B. DIAMOND,

Plaintiff,

v.

ALASKA NATIVE TRIBAL HEALTH
CONSORTIUM, *et al.*,

Defendants.

Case No. 3:20-cv-00317-SLG-KFR

ORDER RE FINDINGS AND RECOMMENDATIONS

At Docket 19 is Plaintiff Daniel B. Diamond's Second Amended Complaint. The matter was referred to the Honorable Magistrate Judge Kyle F. Reardon. At Docket 34, Judge Reardon issued Findings and Recommendations regarding the Second Amended Complaint in which he recommended this action be dismissed without prejudice for failure to serve pursuant to Federal Rule of Civil Procedure 4(m), and failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). No objections to the Findings and Recommendations were filed.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge."¹ A court is to "make a de novo determination of those portions of the magistrate judge's report

¹ 28 U.S.C. § 636(b)(1).

or specified proposed findings or recommendations to which objection is made.”² However, § 636(b)(1) does not “require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”³

The Court has reviewed the Findings and Recommendations and agrees with its analysis. Accordingly, the Court adopts the Findings and Recommendations in their entirety, and IT IS ORDERED that this action is DISMISSED WITHOUT PREJUDICE for failing to serve pursuant to Federal Rule of Civil Procedure 4(m), and failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court shall enter a final judgment accordingly.

DATED this 3rd day of November, 2022, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

² *Id.*

³ *Thomas v. Arn*, 474 U.S. 140, 150 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).